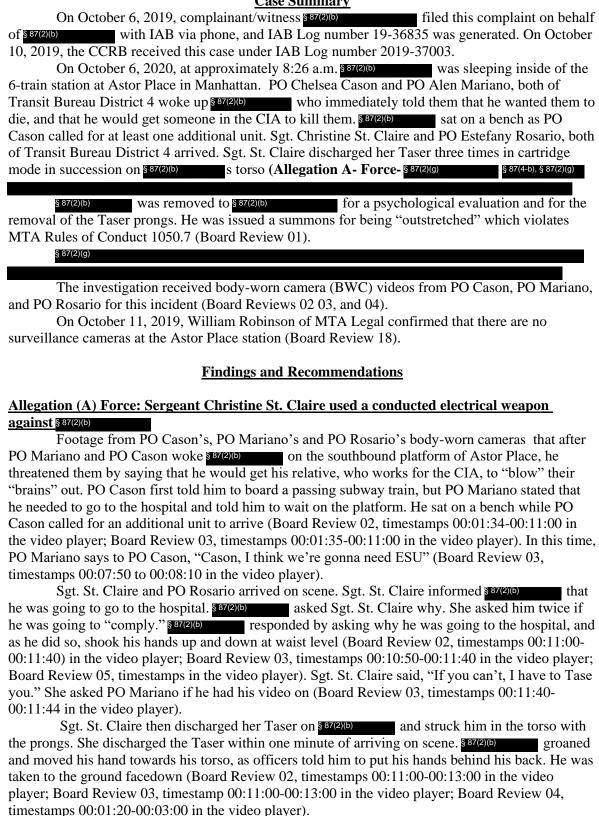
## CCRB INVESTIGATIVE RECOMMENDATION

Investigator:		Team:	CCRB Case #:	<b>▼</b> Forc	 е Г	Discourt.	□ U.S.
Miriam Lynch		Squad #11	201908908	☐ Abus	_	] O.L.	☐ Injury
William Lynch		Squau #11	201900900	Abus	sc L	_ O.L.	☐ Injury
Incident Date(s)		Location of Incident:	•	Precin	ct:	18 Mo. SOL	EO SOL
Sunday, 10/06/2019 8:26 AM		Within the Astor Place	e subway station	09		4/6/2021	11/21/2021
Date/Time CV Reported		CV Reported At:	How CV Reported	: Date/	Time R	eceived at CCI	RB
Sun, 10/06/2019 9:00 AM		IAB	Phone	Thu,	10/10/2	019 11:04 AM	1
Complainant/Victim	Туре	Home Addr	ess				
Subject Officer(s)	Shield	TaxID	Command				
1. SGT Christine Stclaire	01983	932009	TB DT04				
Witness Officer(s)	Shield N	o Tax No	Cmd Name				
1. POF Chelsea Cason	13060	956501	TB DT04				
2. POM Alen Mariano	29304	944116	TB DT04				
3. POF Estefany Rosario	25986	958023	TB DT04				
4. POM Kevin Mcleod	00853	961937	009 PCT				
5. POF Salina Ali	04979	960139	TB DT04				
6. POM Haifeng Lai	31104	952960	TB DT04				
7. POF Guerline Cadet	29471	937620	TB DT04				
8. POM Kenneth Taylor	14733	964312	009 PCT				
9. SGT Kwame Pascal	00893	947325	I.A.B.				
Officer(s)	Allegatio	on			Invest	igator Recon	nmendation
A.SGT Christine Stclaire		Force: Sergeant Christine St. Claire used a conducted electrical weapon against \$87(2)(b)					
§ 87(4-b), § 87(2)(g)							

## **Case Summary**



interview (Board Review 06). At the time of the incident, \$57(2)(5) was on the northbound

provided a phone statement to the CCRB but did not appear for an in-person

platform of the station. § 37(2)(b) was already speaking with PO Cason and PO Mariano at the time. They were telling him to move. § 87(2)(b) was rocking back and forth and sitting on his hands. He was asking the officers why he had to move, telling them "You don't know who I am," and calling one of them a "bitch." The incident did not appear to escalate while only PO Cason and PO Mariano were on scene. Sgt. St. Claire arrived on scene and pulled out her Taser. § 37(2)(b) asked Sgt. St. Claire why she was going to use the Taser on him. Sgt. St. Clare used the Taser on a number of officers surrounded him, and he was then face down on the ground. § 37(2)(b) was then taken to the hospital (Board Review 05).

The investigation could not reach \$87(2)(b) despite multiple contact attempts by mail, and phone. The New York City Department of Homeless Services could not provide any contact information for \$87(2)(b) (Board Review 06).

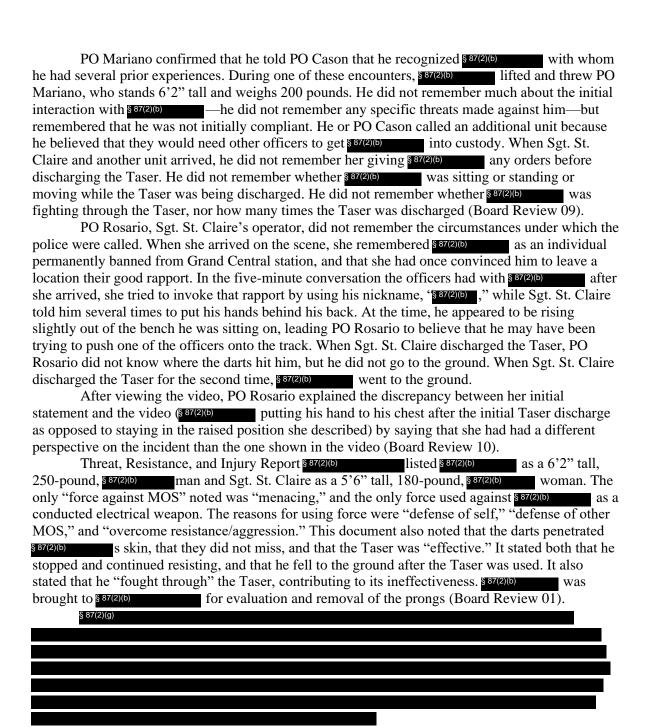
Sgt. St. Claire testified that she came to Astor Place in response to a call for an emotionally disturbed person, a call that required her response. When she arrived, she found 67(2)(6) a 6' tall, 300-pound male individual screaming and cursing at the officers. He told them that he wanted them dead, and that he wanted to harm them. He sat at a bench in the center of the platform. He held his fists clenched at his sides. This action made Sgt. St. Claire fear that he would push one of the officers onto the tracks. Sgt. St. Claire told him that he needed to go to the hospital, and she pulled out her Taser. He continued to yell in response to these actions. She did not remember giving him any orders to do anything specific. She did not know his prior history with officers (Board Review 07).

Sgt. St. Claire worried that if she delayed taking action, then would push one of the other officers onto the tracks. She remembered him moving his upper body up and out at the officers. She came within five to seven feet of him and told him that she did not want to Taser him. He appeared to become more agitated, and she feared that based on his demeanor and how he was moving, that he would lunge. She discharged the Taser the first time, hitting him below the chest (Board Review 07).

After Sgt. St. Claire discharged the Taser for the first time, \$37(2)(b) continued to yell and curse and clench his hands. Sgt. St. Claire, surprised that he continued to yell and clench his hands, discharged the Taser again. She noted that he was disheveled and believed that he may have had a layer of clothing on under his thick hoodie that prevented the darts from latching on. She discharged the Taser a second time for a full cycle. Officers guided \$37(2)(b) to the ground, but he did not place his hands behind his back. At that point, the officers told him to give them his hands, but he did not do so. Sgt. St. Claire then discharged the Taser a third time, for a partial cycle while the officers brought his hands behind his back (Board Review 07).

During her interview, Sgt. St. Claire viewed footage from PO Cason's BWC, and confirmed that it correlated with what she remembered from the incident. She did not want to change any part of her testimony after watching the video (Board Review 07).

PO Cason testified that when she and PO Mariano arrived at Astor Place to remove the homeless individuals sleeping there, PO Mariano immediately identified \$87(2)(b) and said that he had a violent history. As soon as PO Cason and PO Mariano woke him up, he immediately became upset. He told PO Mariano in a loud and angry tone that he would kill him. PO Mariano decided at that point that \$87(2)(b) needed to go to the hospital. PO Cason told him not to get onto an arriving train, and he complied, sitting on a bench. He did not get off the bench and approach the officers at any point, but he continued to threaten them. When Sgt. St. Claire arrived, she told him several times that he was going to have to leave in handcuffs. PO Cason did not remember \$87(2)(b) s response, but he was angry. PO Cason did not remember if Sgt. St. Claire told \$87(2)(b) to do anything specific before discharging the Taser. She discharged it for at least one full cycle, striking \$87(2)(b) in the torso with both prongs from six feet away. After she did so, \$87(2)(b) fell to the ground right away when the Taser was first discharged. After the single Taser discharge, Sgt. St. Claire did not appear to have difficulty taking him to the ground (Board Review 08).



Patrol Guide Procedure 221-02 regulates the use of force. It defines "de-escalation" as "taking action to stabilize the situation and reduce the immediacy of the threat so that more time, options, and resources become available...to reduce or eliminate the necessity to use force" (Board Review 19). It further directs the supervisor on scene to "coordinate the use of de-escalation techniques" (Board Review 19).

Patrol Guide Procedure 221-08 governs the use of conducted electrical weapons, and states, "the CEW is a significant intermediate use of force option" to be used only against "persons who are actively resisting, exhibiting active aggression, or to prevent individuals from physically injuring themselves or other person(s) actually present." The Patrol Guide further narrows "active aggression" as a threat or assault "coupled with the present ability to carry out the threat or assault."

In deciding whether to use a Taser, officers should consider the following factors: the

severity of the circumstances, actions taken by the subject, immediacy of the perceived threat to the subject, members of service, or bystanders, whether the subject is resisting custody, whether the subject is trying to evade arrest by flight, number of subjects in comparison to the number of officers, size, age and condition in comparison to the officers, presence of hostile crown or agitators, and the subject being under the influence of a substance that would likely increase pain tolerance (Board Review 11).

With respect to multiple CEW cycles, Patrol Guide Procedure 221-08 stipulates that "members should use the CEW for one cycle while constantly assessing if multiple cycles are necessary...all applications must be independently justifiable." It also states, "It is strictly prohibited to use the CEW...on persons who passively resist (e.g. going limp, offering no active resistance)" (Board Review 11).

	87(2)(g)
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§ 87(4-b), § 8	7(2)(a)
3 07 (4-0); 3	- -

## **Civilian and Officer CCRB Histories**

- This is the first CCRB complaint involving \$87(2)(b) (Board Review 13).
- This is the first CCRB complaint involving \$87(2)(b) (Board Review 14).
- Sgt. St. Claire has been a member of service for 18 years. Six prior CCRB complaints with eight allegations have been filed against her. None have been substantiated.

0	§ 87(2)(g)		

## **Mediation, Civil and Criminal Histories**

- This case was not suitable for mediation.
- On November 30, 2020, a request for a notice of claim from the Office of the New York City Comptroller was returned with negative results (Board Review 15).

• [§ 87(2)(b)]	• [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]					
Squad No.:						
Investigator:	Miriam Lynch Signature	SI Miriam Lynch Print Title & Name	12/14/20 Date			
Squad Leader:	Edwin Pena Signature	IM Edwin Pena Print Title & Name	12/15/20 			
Reviewer:	Signature	Print Title & Name	 Date			